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**DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL  
CONTROL****DIVISION OF AIR QUALITY**

Statutory Authority: 7 Delaware Code, Chapter 60; (7 Del.C. Ch. 60)

7 DE Admin. Code 1120

**REGISTER NOTICE****SAN # 2017-03****1120 New Source Performance Standards****1. TITLE OF THE REGULATIONS:**

7 DE Admin. Code 1120 New Source Performance Standards

**2. BRIEF SYNOPSIS OF THE SUBJECT, SUBSTANCE AND ISSUES:**

On August 29, 2016, the EPA promulgated two regulations applicable to municipal solid waste landfills (MSWLs). The EPA promulgated 40 CFR Part 60 Subpart XXX under 111(b); Subpart XXX regulated the emissions from new MSWLs. The EPA promulgated 40 CFR Part 60 Subpart Cf under 111(d); Subpart Cf mandated state agencies to develop plans to regulate emissions from existing MSWLs. The purpose of these two federal regulations was to reduce the public health impacts associated with VOC and methane emissions from MSWLs.

The purpose of this action is to incorporate the federal new MSWL requirements in Subpart XXX by reference as Section 30 of 7 DE Admin. Code 1120. To satisfy the existing MSWL requirements of Subpart Cf, the applicability of Section 30 will be expanded to include both existing and new MSWLs. Once finalized, Section 30 and the State Plan will be submitted to the EPA for approval. There are three existing MSWLs in Delaware; all are operated by the Delaware Solid Waste Authority. There are no new MSWLs.

**3. POSSIBLE TERMS OF THE AGENCY ACTION:**

None

**4. STATUTORY BASIS OR LEGAL AUTHORITY TO ACT:**

7 Delaware Code, Chapter 60, Environmental Control

**5. OTHER REGULATIONS THAT MAY BE AFFECTED BY THE PROPOSAL:**

None

**6. NOTICE OF PUBLIC COMMENT:**

Statements and testimony may be presented either orally or in writing at a public hearing to be held on Monday, April 24, 2017 starting at 6:00 PM in the DNREC office located at 100 W. Water Street (Suite 6A), Dover, DE. If you are unable to attend or wish to submit your comments in advance of the public hearing, please send your comments to address below. Interested parties may also submit written comments to the Department, to the same address below, up until the end of the comment period, which will extend through May 9, 2017, unless a longer period is designated by the hearing officer at the public hearing.

DNREC - Division of Air Quality

Subject: April 24 Public Hearing

715 Grantham Lane

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**7. PREPARED BY:**

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March 12, 2017

**\*Please Note: The Regulatory Flexibility Analysis and Impact Statement for this regulation, as required by 29 Del.C. Ch. 104, is available at:**

<http://regulations.delaware.gov/register/april2017/proposed/20 DE Reg 771RFA 04-01-17.pdf>

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# PROPOSED REGULATIONS

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## 1120 New Source Performance Standards (Break in Continuity of Sections)

### **30.0 Standards of Performance for Municipal Solid Waste Landfills After July 11, 2017**

The provisions of Subpart XXX of Part 60, Title 40 of the Code of Federal Regulations - "Standards of Performance for Municipal Solid Waste Landfills That Commenced Construction, Reconstruction, or Modification After July 17, 2014", as set forth in Vol. 81, No. 167, pp. 59368-59384, of the Federal Register, dated August 29, 2016, attached hereto, are hereby incorporated herein and adopted by reference, subject to the following changes:

- 30.1 Wherever the word "Administrator" appears it shall be replaced by the word "Department", with the exception of paragraphs 60.760(b) and 60.764(a)(5).
- 30.2 The ASTM Standard Test Method D6522-11 is incorporated herein and adopted by reference. The following definitions, subsections and test methods that are referenced in the text of the preceding adoption are also incorporated herein and adopted by reference as they appear in Title 40 of the Code of Federal Regulations, dated July 1, 2016:
  - 30.2.1 The definition of "land application unit", "surface impoundment", "injection well", "waste pile" and "other types of RCRA Subtitle D wastes" as each of those terms is defined in 40 CFR 257.2.
  - 30.2.2 The definition of "sludge" and "solid waste" as each of those terms is defined in 40 CFR 258.2.
  - 30.2.3 The definition of "performance test" in 60.764(a)(3)(i), as the term is defined in 40 CFR 60.8.
  - 30.2.4 The requirements of 40 CFR 51.166 and 52.21, as referenced in 60.764(c).
  - 30.2.5 The requirements of 40 CFR 60.4, as referenced in 60.767(i)(2).
  - 30.2.6 The requirements of 40 CFR 60.7(a)(1), as referenced in 60.767(a)(1).
  - 30.2.7 The requirements of 40 CFR 60.7(a)(4), as referenced in 60.761 and 60.767(e).
  - 30.2.8 The requirements of 40 CFR 60.8, as referenced in 60.764(b)(3)(i), 60.764(e)(1), 60.767(g), 60.767(h), and 60.767(i)(1).
  - 30.2.9 The requirements of 40 CFR 60.17, as referenced in 60.766(a)(2)(ii) and 60.766(a)(2)(iii)(B).
  - 30.2.10 The requirements of 40 CFR 60.18, as referenced in 60.762(b)(2)(iii)(A) and 60.768(b)(4).
  - 30.2.11 The requirements of 40 CFR 60.18(f)(3) and 60.18(f)(4), as referenced in 60.764(e).
  - 30.2.12 The requirements of 40 CFR 258, as referenced in 60.767(k).
  - 30.2.13 The requirements of 40 CFR 258.40, as referenced in 60.762(b)(2)(ii)(D)(2).
  - 30.2.14 The requirements of 40 CFR 258.60, as referenced in 60.767(e).
  - 30.2.15 Methods 2, 2E, 3, 3A, 3C, 18, 21, 25, 25A and 25C in appendix A of 40 CFR Part 60.
- 30.3 The title of Subpart XXX shall be replaced with the following language: "30.0 Standards of Performance for Municipal Solid Waste Landfills After July 11, 2017."
- 30.4 Section 60.760(a) shall be replaced with the following language: "The provisions of this subpart apply to each municipal solid waste landfill, open or closed, that commenced construction, reconstruction, or modification after July 17, 2014 or that has accepted waste after November 8, 1987 or that has additional capacity available to accept waste."
- 30.5 Section 60.762(a) shall be replaced with the following language: "Each owner or operator of an MSW landfill having a design capacity less than 2.5 million megagrams by mass or 2.5 million cubic meters by volume must submit an initial design capacity report to the Department as provided in §60.767(a). The landfill may calculate design capacity in either megagrams or cubic meters for comparison with the exemption values. Any density conversions must be documented and submitted with the report. For purposes of 7 DE Admin. Code 1130, Title V State Operating Permit Program, a landfill with a design capacity less than 2.5 million megagrams or 2.5 million cubic meters does not require an operating permit under 7 DE Admin. Code 1130, provided it is not a major source as defined in 7 DE Admin. Code 1130. Submittal of the initial design capacity report fulfills the requirements of this subpart except as provided for in paragraphs (a)(1) and (2) of this section."
- 30.6 Delete ", local, or tribal" in Sections 60.761, 60.767(a)(2)(i) and 60.767(a)(2)(ii).

- 30.7 Paragraph 60.762(b) shall be replaced with the following language: "Each owner or operator of an MSW landfill having a design capacity equal to or greater than 2.5 million megagrams and 2.5 million cubic meters, must either comply with paragraph (b)(2) of this section or calculate an NMOC emission rate for the landfill using the procedures specified in §60.764. The NMOC emission rate must be recalculated annually, except as provided in §60.767(b)(1)(ii). The owner or operator of an MSW landfill subject to this subpart with a design capacity greater than or equal to 2.5 million megagrams and 2.5 million cubic meters is subject to 7 DE Admin. Code 1130. When a landfill is closed, and either never needed control or meets the conditions for control system removal specified in §60.762(b)(2)(v), a 7 DE Admin. Code 1130 operating permit is no longer required."
- 30.8 Section 60.762(b)(2)(ii) shall be replaced with the following language: "*Collection system.* Install and start up a collection and control system that captures the gas generated within the landfill as required by paragraphs (b)(2)(ii)(C) or (D) and (b)(2)(iii) of this section in accordance with paragraph (b)(2)(ii)(A) or (B) of this section, whichever is applicable."
- 30.9 Section 60.762(b)(2)(ii)(A) shall be replaced with the following language: "*For MSW landfills that commenced construction, reconstruction, or modification on or after July 17, 2014.* The collection and control system must be started up in accordance with paragraph (b)(2)(ii)(A)(1) or (2) of this section, whichever is applicable."
- 30.10 Add new section 60.762(b)(2)(ii)(A)(1) with the following language: "Within 30 months of the first annual report in which the NMOC emission rate equals or exceeds 34 megagrams per year, unless Tier 2 or Tier 3 sampling demonstrates that the NMOC emission rate is less than 34 megagrams per year, as specified in §60.767(c)(4) or".
- 30.11 Add new section 60.762(b)(2)(ii)(A)(2) with the following language: "Within 30 months of the most recent NMOC emission rate report in which the NMOC emission rate equals or exceeds 34 megagrams per year based on Tier 2, if the Tier 4 surface emissions monitoring shows a surface methane emission concentration of 500 parts per million methane or greater as specified in §60.767(c)(4)(iii)."
- 30.12 Section 60.762(b)(2)(ii)(B) shall be replaced with the following language: "*For all other subject MSW landfills.* As expeditiously as practicable but not later than January 8, 2018."
- 30.13 Section 60.762(c) shall be replaced with the following language: "For purposes of obtaining an operating permit under title V of the Clean Air Act, the owner or operator of an MSW landfill subject to this subpart with a design capacity less than 2.5 million megagrams or 2.5 million cubic meters is not subject to the requirement to obtain an operating permit for the landfill under 7 DE Admin. Code 1130, unless the landfill is otherwise subject to either part 70 or 71. For purposes of submitting a timely application for an operating permit under part 70 or 71, the owner or operator of an MSW landfill subject to this subpart with a design capacity greater than or equal to 2.5 million megagrams and 2.5 million cubic meters, and not otherwise subject to 7 DE Admin. Code 1130, becomes subject to the requirements of paragraph 5.1.1 of 7 DE Admin. Code 1130, regardless of when the design capacity report is actually submitted, no later than:".
- 30.14 Sections 60.762(c)(1), 60.767(a)(1)(i) and 60.767(b)(1)(i)(A) shall be replaced with the following language: "Ninety days after the date of commenced construction, modification, or reconstruction for MSW landfills that commenced construction, modification, or reconstruction on or after July 17, 2014 or".
- 30.15 Section 60.762(c)(2) and Section 60.767(b)(1)(i)(B) shall be replaced with the following language: "January 8, 2018 for all other subject MSW landfills."
- 30.16 Section 60.763(g) shall be replaced with the following language: "If monitoring demonstrates that the operational requirement in paragraphs (b), (c), or (d) of this section are not met, corrective action must be taken as specified in §60.765(a)(3) and (5) or §60.765(c). If corrective actions are taken, as specified in §60.765, the monitored exceedance is not a violation of the operational requirements in this section."
- 30.17 Section 60.767(a)(1)(ii) shall be replaced with the following language: "The date specified in a State construction or operating permit, if applicable, or January 8, 2018, whichever is earlier, for all other subject MSW landfills."

## PROPOSED REGULATIONS

- 30.18 The final sentence in section 60.767(a)(2)(ii) shall be replaced with the following language: "The Department may request other reasonable information as may be necessary to verify the maximum design capacity of the landfill."
- 30.19 Section 60.767(i)(1)(ii) shall be replaced with the following language: "For data collected using test methods that are not supported by the EPA's ERT as listed on the EPA's ERT Web site at the time of the test, you must submit the results of the performance test to the Department."
- 30.20 Section 60.767(k)(7) shall be replaced with the following language: "The initial report must contain items in paragraph (k)(1) through (6) of this section per year for the initial annual reporting period as well as for each of the previous 10 years, to the extent historical data are available in on-site records, and the report must be submitted no later than thirteen (13) months after the date of commenced construction, modification, or reconstruction for landfills that commenced construction, modification, or reconstruction on or after July 17, 2014 containing data for the first 12 months after August 29, 2016."
- 30.21 Delete and reserve sections 60.767(k)(7)(i) and 60.767(k)(7)(ii).
- 30.22 Section 60.768(c)(3) shall be replaced with the following language: "Each owner or operator subject to the provisions of this subpart who uses a boiler or process heater with a design heat input capacity of 44 megawatts or greater to comply with §60.762(b)(2)(iii) must keep an up-to-date, readily accessible record of all periods of operation of the boiler or process heater. (Examples of such records could include records of steam use, fuel use, or monitoring data collected pursuant to other state or federal regulatory requirements.)"

**\*Please Note: As the rest of the sections were not amended, they are not being published. A copy of the regulation is available at:**

1120 New Source Performance Standards

### DEPARTMENT OF SAFETY AND HOMELAND SECURITY

DIVISION OF STATE POLICE

5500 BAIL ENFORCEMENT AGENTS

Statutory Authority: 24 Delaware Code, Section 5504(e) (24 Del.C. §5504(e))  
24 DE Admin. Code 5500

#### PUBLIC NOTICE

#### 5500 Bail Enforcement Agents

Notice is hereby given that the Board of Examiners of Bail Enforcement Agents, in accordance with 24 Del.C. Ch. 55 proposes to amend the following adopted rule in 24 DE Admin. Code 5500 Bail Enforcement Agents: Rule 2.0 - Badges, Patches, Advertisements - clarifying that "Bail Enforcement Agent" must be displayed on the outer most garment; Rule 8.0 - Apprehension Procedures - clarifies where/when a BEA must report an apprehension or surveillance. If you wish to view the complete Rules, contact Ms. Peggy Anderson at (302) 672-5304. Any persons wishing to present views may submit them in writing, by May 1, 2017, to Delaware State Police, Professional Licensing Section, P. O. Box 430, Dover, DE 19903. The Board will hold its quarterly meeting Thursday, May 25, 2017, 10:00am, at the Tatnall Building, 150 Martin Luther King, Jr. Boulevard South, Room 112, Dover, DE.

**\*Please Note: The Regulatory Flexibility Analysis and Impact Statement for this regulation, as required by 29 Del.C. Ch. 104, is available at:**

<http://regulations.delaware.gov/register/april2017/proposed/20 DE Reg 774RFA 04-01-17.pdf>

5500 Bail Enforcement Agents  
(Break in Continuity of Sections)